

TERMS OF REFERENCE

TASK FORCE ON THE CRIMINAL JUSTICE SYSTEM AND ITS IMPACT ON THE INDIAN AND METIS PEOPLE OF ALBERTA

A. GENERAL OBJECTIVE

The overall objective of the Task Force is to complete a review of the criminal justice system in Alberta as it relates to Indian and Metis people and to provide a report for the Solicitor General of Canada, the Attorney General of Alberta and the Solicitor General of Alberta, which identifies any problems and proposes solutions to ensure the Indian and Metis people receive fair, just and equitable treatment at all stages of the criminal justice process in Alberta.

B. SCOPE

1. The Task Force has the following responsibilities:
 - a) to examine the criminal justice system in Alberta as it affects Indian and Metis people, in urban, rural, reserve and isolated settings with consideration to be given to any ways in which the system affects men and women differently;
 - b) to identify the areas, if any, and consider the extent to which Indian and Metis people are treated differently from non-Indian and non-Metis people by the criminal justice system and to assess whether that different treatment is desirable or detrimental;
 - c) to identify areas where, and the extent to which, Indian and Metis people should be treated differently from non-Indian and non-Metis people within the present criminal justice system;
 - d) to consider alternative methods of dealing with Indian and Metis people involved with the criminal justice system that take into account Indian and Metis cultures, languages and special needs, and to recommend changes that can be equitably and readily achieved to the existing system that take into account culture, languages and special needs of Indian and Metis people, particularly Indian and Metis youth.
2. Any recommendations made by the Task Force will have regard for the present constitutional and legal framework in Canada and Alberta.

C. CONSULTATIONS

1. The Task Force will visit various locations in the Province to receive representations and submissions from interested Indian and Metis groups, organizations and associations.
2. These consultations are subject to the following terms and conditions:
 - a) any group, organization or association wishing to make representations to the Task Force will normally be required to first submit a written brief, although the Task Force may receive oral presentations where there are extenuating circumstances;
 - b) only groups, organizations and associations or individuals representing groups, organizations or associations may make representations to the Task Force;
 - c) individuals, groups, organizations and associations making representations to the Task Force will be expected to respond to questions from members of the Task Force and to defend their representations accordingly.
3. The Task Force may develop and disseminate the information it considers necessary to ensure that those interested in making representations are informed of the establishment of the Task Force and of the objective, scope and content of the examination in which it is engaged.
4. The Task Force may invite representations from particular groups, organizations and associations whose participation is viewed by the Task Force as necessary or desirable because of their role in the delivery of criminal justice services.

D. AREAS OF EXAMINATION

The purview of each area of examination is as follows:

1. Research

- a) to review the findings and recommendations of Report #4 of the Kirby Board of Review to assess
 - i) the extent to which the findings are still applicable,
 - ii) the extent to which the recommendations were implemented, and,
 - iii) the effect that the recommendations that were implemented have had on the Indian and Metis people involved with the criminal justice system in Alberta;
- b) to review recent reports respecting Indian and Metis people and the criminal justice system to determine to what extent the findings and recommendations of other reports apply to the Alberta situation including but not limited to

- i) "Justice behind the Walls" (report of the Canadian Bar Association),
 - ii) "Locking Up Natives in Canada" (report of the Canadian Bar Association),
 - iii) "Aboriginal Peoples in Federal Corrections" (report of the Solicitor General of Canada),
 - iv) "R.C.M.P. Review into Native Policing in Alberta and Across Canada",
 - v) "Commission of Inquiry into Policing in Relation of the Blood Tribe", and,
 - vi) "Human Rights Commission Report" (Canada, 1989);
- c) to review projects and programs implemented in other jurisdictions designed to address the needs and concerns of the Indian and Metis people involved in the criminal justice system.

2. Policing

- a) to review the delivery of policing services to Indian and Metis communities and more specifically, regarding identifiable Indian and Metis communities, the Task Force will
- i) examine the existing relationship between members of the Indian and Metis communities and the R.C.M.P.,
 - ii) examine the existing lines of communication between the R.C.M.P. and municipal police forces and Indian and Metis leaders to determine if existing police practices are responsive to Indian and Metis concerns, in particular the degree of Indian and Metis input into the identification of enforcement problems and the development of solutions,
 - iii) examine the existing level of police service in the Indian and Metis communities, the working relationships between the R.C.M.P. personnel and band special constables, and the effectiveness of special programs such as crime prevention initiatives and other forms of police/community involvement, and
 - iv) review the impact of the R.C.M.P. Special Constable program in relation to the original objectives of the program in light of current needs;
- b) as it relates to Indian and Metis people in urban, rural and isolated settings, to review existing relationships between Indian and Metis people and municipal police forces and the R.C.M.P.;
- c) to review and assess the current recruit training and other in-service training programs of the R.C.M.P. and municipal police forces in so far as this training relates to Indian and Metis cultural awareness and understanding;
- d) to review and assess the recruitment and selection programs of the R.C.M.P. and municipal police forces that are designed to attract Indian and Metis people into the respective police forces;

- e) to review the operational policies and practices of the R.C.M.P. and municipal police forces as they relate to the exercise of police powers as between Indian and Metis people and non-Indian and non-Metis people to determine if there are differences in treatment and whether those differences are desirable or detrimental.

3. Legal Aid

- a) to determine the extent to which Indian and Metis people involved with the criminal justice system are aware of the availability of legal aid, how to obtain legal aid and the extent to which legal aid is presently provided following arrest, when appearing before a Justice of the Peace, or when first appearing in Court;
- b) to identify the deficiencies that exist between the present system of legal aid respecting the needs of Indian and Metis people involved with the criminal justice system, and to determine how these deficiencies can be effectively addressed.

4. Courts

- a) to examine the extent to which Indian and Metis people currently experience difficulty when appearing in Court as a result of their unique languages and cultures;
- b) to determine whether and to what extent differences exist in sentencing practices as between Indian and Metis people and non-Indian and non-Metis people;
- c) to examine existing levels of community input and to assess the feasibility of permitting a greater degree of participation by knowledgeable and respected Indian and Metis people in the sentencing process;
- d) to assess the desirability and the extent to which Court sittings should be routinely and/or selectively held in identifiable Indian and Metis communities;
- e) to determine whether alternatives to imprisonment that may be available to non-Indian and non-Metis people are also available to Indian and Metis people and whether there are any barriers to their having access to those programs;
- f) to determine to what extent Indian and Metis people appearing in a court are presently provided with interpreters/translators and to determine if there are tangible benefits to permitting Indian and Metis people to use their own language in the courts;
- g) to examine whether and the extent to which differences exist in the provision of bail, release on own recognizance or other forms of conditional release prior to trial or adjudication between Indian and Metis people and non-Indian and non-Metis people;

- h) to determine the extent to which Indian and Metis people are imprisoned due specifically to their inability to pay a fine or use a fine option program.

5. Prosecution

to determine whether and the extent to which differences exist in the exercise of prosecutorial discretion between Indian and Metis people and non-Indian and non-Metis people.

6. Corrections

- a) to examine the current admission rates/numbers, incarceration rates/numbers, average sentence and average length of time served in prison by Indian and Metis people in comparison to non-Indian and non-Metis people;
- b) to examine existing policies and practices to determine whether there are any discrepancies between Indian and Metis and non-Indian and non-Metis people respecting
 - i) prisoner classification, case management techniques, release criteria and the availability of programs to Indian and Metis people while in custody, and
 - ii) the criteria for entry to community release programs and the rate of early release of Indian and Metis people;
- c) to review existing correctional centre programs for both men and women to determine
 - i) the nature and content of programs for both young offenders and adult offenders,
 - ii) whether there is sufficient attention being given to the general needs and concerns Indian and Metis people including educational, personal development, drug and alcohol abuse and other programs of importance to the Indian and Metis people who are seeking to become more productive on release from prison, and
 - iii) whether there is sufficient attention being given to the special needs and concerns of Indian and Metis people in view of their cultural and spiritual heritage;
- d) to determine the extent to which Indian and Metis elders and other respected Indian and Metis leaders, organizations and associations are presently involved in program development and delivery and in providing advice to senior correctional officials, and to determine how Indian and Metis people can become more involved in the correctional system in a productive and positive manner;
- e) to examine the level of interest in Indian and Metis communities and among Indian and Metis leaders and organizations in taking on a more active role in the delivery of community based correctional programs and crime prevention initiatives.

7. Native Counselling Services of Alberta

- a) to examine the effectiveness of the working relationships between Native Counselling Services of Alberta (NCSA) and the police community, the courts, the correctional systems (both federal and provincial), the Indian and Metis communities and individuals and the Indian and Metis leadership, organizations and associations;
- b) to identify, to the extent possible, methods of improving services through the NCSA or through other organizations or service delivery options.

8. Other

- a) to identify and describe other areas of concern that contribute directly to Indian and Metis people becoming involved in the criminal justice system in the first instance, and to recommend other steps that can be taken to more effectively address those areas of concern;
- b) to identify areas of jurisdictional interaction or overlap between the federal and provincial governments that tend to impede actions and decisions within the corrections system to the detriment of Indian and Metis offenders;
- c) to determine how the various departments of the Government of Alberta that provide services to Indian and Metis people can more effectively coordinate various services and programs to the benefit of the Indian and Metis people in such a manner as to reduce the number of Indian and Metis people coming into contact with the criminal justice system;
- d) to review the cross cultural training provided to the judiciary, crown prosecutors, legal aid personnel and correctional personnel to determine if existing training is adequate and to make any recommendations necessary to ensure the development of comprehensive and effective programs;
- e) to determine to what extent Indian and Metis people are presently employed in the various components of the criminal justice system in Alberta and to propose policy changes that would result in a higher level of employment;
- f) to identify areas of concern as they relate to the special needs of Indian and Metis youth and women as they are affected by the areas under review.

9. Ongoing Process

to formulate a process for the ongoing monitoring and upgrading of programs and initiatives implemented pursuant to the recommendations of the Task Force.